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10/531,622	04/14/2005	David S. Foell	1200210-2N US	8430
35227 7590 08/03/2009 POLYONE CORPORATION 33587 WALKER ROAD AVON LAKE, OH 44012				
EXAMINER				
SAFAVI, MICHAEL				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Box 3: Contd. Proposed amendment to cancel claim 6 would raise a new issue as to what is being defined by claim 1 or what is being defined by claims 1 and 8 in that the limitation of claim 6 has been set forth as reading upon the elected embodiment and what is being defined by claim 1.

Box 11: Contd. With respect to Applicants' arguments regarding the IDS of February 05, 2009, the information disclosure statement fails to set forth date of publication as well as author or publisher for the reference listed under NON-PATENT LITERATURE DOCUMENTS. And, Applicant does not appear to have provided a full copy of the listed Laid Open Application or published application. Further, Applicant has not provided a concise explanation of the relevance of each patent, publication, or other Information listed that is not in the English language.

As for Applicants' argument against the rejection of claims 1, 6, and 8 under 35 U.S.C. 112, Applicant's reference to Figure 6 of the instant disclosure does not appear relevant as Applicant has elected the embodiment of apparatus "having one straight surface w/male portions having first projections parallel to each other and to the wall and second projections perpendicular to each other" and as explained in the Advisory action of August 13, 2008 and again in the Office action of November 13, 2008 the elected embodiment of apparatus "having one straight surface w/male portions having first projections parallel to each other and to the wall and second projections perpendicular to each other" cannot be that embodiment illustrated in Fig. 6 of the instant disclosure. Applicant did not intend to prosecute the embodiment of Fig. 6 as per

Applicants' election of apparatus "having one straight surface w/male portions having first projections parallel to each other and to the wall and second projections perpendicular to each other" and the examiner's explanation, (twice presented), as to how the Fig. 6 embodiment does not serve to read upon the elected embodiment of apparatus "having one straight surface w/male portions having first projections parallel to each other and to the wall and second projections perpendicular to each other".

Further, it is not seen that the original disclosure set forth "octagonal tubular form elements consisting of: a wall panel". And, if addressing Fig. 6, it appears that even what is illustrated in Fig. 6 has more than "a fin" at either "engagement portion". Also, the instant disclosure does not set forth that any of the embodiments are of solely any given elements. Therefore, the instant specification does not provide support for the language of claim 1.

As for Applicants' arguments against the applied prior art, Applicant appears to be arguing an intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In this case, each male engagement portion 20 of Elderson including each fin, (the respective section extending outwardly from portion 20), can "engage a matching female engagement portion".

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL SAFAVI whose telephone number is (571)272-7046. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Michael Safavi/
Primary Examiner, Art Unit 3637

M. Safavi
July 30, 2009